

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2794

Introduced by Assembly Member Santiago

February 19, 2016

An act to amend ~~Section 1569.311 of the Health and Safety Code, relating to care facilities. Sections 25150.84, 25189.3, 25205.7, 25205.18, 25205.19, and 25247 of the Health and Safety Code, relating to hazardous waste.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2794, as amended, Santiago. ~~Building standards: care facilities. Hazardous waste: facilities permitting: fees.~~

Existing law provides a person who applies for, or requests, specified hazardous waste permits, variances, or waste classification determinations with the option of paying a flat fee or entering into a reimbursement agreement to reimburse the Department of Toxic Substances Control for costs incurred in processing the application or response to the request.

This bill would eliminate the flat fee option and would make conforming changes.

~~Existing law requires every residential care facility for the elderly to have one or more carbon monoxide detectors in the facility, as provided.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 25150.84 of the Health and Safety Code*
2 *is amended to read:*

3 25150.84. (a) The department is authorized to collect an annual
4 fee from all metal shredding facilities that are subject to the
5 requirements of this chapter or to the alternative management
6 standards adopted pursuant to Section 25150.82. The department
7 shall establish and adopt regulations necessary to administer this
8 fee and to establish a fee schedule that is set at a rate sufficient to
9 reimburse the department's costs to implement this chapter as
10 applicable to metal shredder facilities. The fee schedule established
11 by the department may be updated periodically as necessary and
12 shall provide for the assessment of no more than the reasonable
13 and necessary costs of the department to implement this chapter,
14 as applicable to metal shredder facilities.

15 (b) The Controller shall establish a separate subaccount in the
16 Hazardous Waste Control Account. The fees collected pursuant
17 to this section shall be deposited into the subaccount and be
18 available for expenditure by the department upon appropriation
19 by the Legislature.

20 (c) A regulation adopted pursuant to this section may be adopted
21 as an emergency regulation in accordance with Chapter 3.5
22 (commencing with Section 11340) of Part 1 of Division 3 of Title
23 2 of the Government Code, and for the purposes of that chapter,
24 including Section 11349.6 of the Government Code, the adoption
25 of these regulations is an emergency and shall be considered by
26 the Office of Administrative Law as necessary for the immediate
27 preservation of the public peace, health, safety, and general welfare.
28 Notwithstanding Chapter 3.5 (commencing with Section 11340)
29 of Part 1 of Division 3 of Title 2 of the Government Code, an
30 emergency regulation adopted by the department pursuant to this
31 section shall be filed with, but not be repealed by, the Office of
32 Administrative Law and shall remain in effect for a period of two
33 years or until revised by the department, whichever occurs sooner.

34 (d) (1) A metal shredding facility paying an annual fee in
35 accordance with this section shall be exempt from the following
36 fees as the fees pertain to metal shredding activities and the
37 generation, handling, management, transportation, and disposal
38 of metal shredder waste:

1 (A) A fee imposed pursuant to subdivision (a) ~~or (d)~~ of Section
2 25205.7.

3 (B) A disposal fee imposed pursuant to Section 25174.1.

4 (C) A facility fee imposed pursuant to Section 25205.2.

5 (D) A generator fee imposed pursuant to Section 25205.5.

6 (E) A transportable treatment unit fee imposed pursuant to
7 Section 25205.14.

8 (2) A metal shredding facility is not exempt from the fees listed
9 in paragraph (1) for any other hazardous waste the metal shredding
10 facility generates and handles.

11 *SEC. 2. Section 25189.3 of the Health and Safety Code is*
12 *amended to read:*

13 25189.3. (a) For purposes of this section, the term “permit”
14 means a hazardous waste facilities permit, interim status
15 authorization, or standardized permit.

16 (b) The department shall suspend the permit of any facility for
17 nonpayment of any facility fee assessed pursuant to Section
18 25205.2 or activity fee assessed pursuant to ~~subdivision (d) of~~
19 Section 25205.7, if the operator of the facility is subject to the fee,
20 and if the State Board of Equalization has certified in writing to
21 all of the following:

22 (1) The facility’s operator is delinquent in the payment of the
23 fee for one or more reporting periods.

24 (2) The State Board of Equalization has notified the facility’s
25 operator of the delinquency.

26 (3) The operator has exhausted the administrative rights of
27 appeal provided by Chapter 3 (commencing with Section 43151)
28 of Part 22 of Division 2 of the Revenue and Taxation Code, and
29 the State Board of Equalization has determined that the operator
30 is liable for the fee, or that the operator has failed to assert those
31 rights.

32 (c) (1) The department shall suspend the permit of any facility
33 for nonpayment of a penalty assessed upon the owner or operator
34 for failure to comply with this chapter or the regulations adopted
35 pursuant to this chapter, if the penalty has been imposed by a trial
36 court judge or by an administrative hearing officer, if the person
37 has agreed to pay the penalty pursuant to a written agreement
38 resolving a lawsuit or an administrative order, or if the penalty has
39 become final due to the person’s failure to respond to the lawsuit
40 or order.

(2) The department may suspend a permit pursuant to this subdivision only if the owner or operator is delinquent in the payment of the penalty and the department has notified the owner or operator of the delinquency pursuant to subdivision (d).

(d) Before suspending a permit pursuant to this section, the department shall notify the owner or operator of its intent to do so, and shall allow the owner or operator a minimum of 30 days in which to cure the delinquency.

(e) The department may deny a new permit or refuse to renew a permit on the same grounds for which the department is required to suspend a permit under this section, subject to the same requirements and conditions.

(f) (1) The department shall reinstate a permit that is suspended pursuant to this section upon payment of the amount ~~due~~, *due* if the permit has not otherwise been revoked or suspended pursuant to any other provision of this chapter or regulation. Until the department reinstates a permit suspended pursuant to this section, if the facility stores, treats, disposes of, or recycles hazardous wastes, the facility shall be in violation of this chapter. If the operator of the facility subsequently pays the amount due, the period of time for which the operator shall have been in violation of this chapter shall be from the date of the activity that is in violation until the day after the owner or operator submits the payment to the department.

(2) Except as otherwise provided in this section, the department is not required to take any other statutory or regulatory procedures governing the suspension of the permit before suspending a permit in compliance with the procedures of this section.

(g) (1) A suspension under this section shall be stayed while an authorized appeal of the fee or penalty is pending before a court or an administrative agency.

(2) For purposes of this subdivision, “an authorized appeal” means any appeal allowed pursuant to an applicable regulation or statute.

(h) The department may suspend a permit under this section based on a failure to pay the required fee or penalty that commenced prior to January 1, 2002, if the failure to pay has been ongoing for at least 30 days following that date.

(i) Notwithstanding Section 43651 of the Revenue and Taxation Code, the suspension of a permit pursuant to this section, the reason

1 for the suspension, and any documentation supporting the
2 suspension, shall be a matter of public record.

3 (j) (1) This section does not authorize the department to
4 suspend a permit held by a government agency if the agency does
5 not dispute the payment but nonetheless is unable to process the
6 payment in a timely manner.

7 (2) This section does not apply to a site owned or operated by
8 a federal agency if the department has entered into an agreement
9 with that federal agency regarding the remediation of that site.

10 (k) This section does not limit or supersede Section 25186.

11 *SEC. 3. Section 25205.7 of the Health and Safety Code is*
12 *amended to read:*

13 25205.7. (a) (1) Except as otherwise provided in this section,
14 any person who applies for, or requests, ~~one~~ any of the following
15 shall enter into a written agreement with the department pursuant
16 to which that person shall reimburse the department, pursuant to
17 Article 9.2 (commencing with Section 25206.1), for the costs
18 incurred by the department in processing the application or
19 responding to the request:

20 (A) A new hazardous waste facilities permit, including a
21 standardized permit.

22 (B) A hazardous waste facilities permit for postclosure.

23 (C) A renewal of an existing hazardous waste facilities permit,
24 including a standardized permit or postclosure permit.

25 (D) A class 2 or class 3 modification of an existing hazardous
26 waste facilities permit or grant of interim status, including a
27 standardized permit or grant of interim status or a postclosure
28 permit.

29 (E) A variance.

30 (F) A waste classification determination.

31 (2) Any agreement required pursuant to paragraph (1) may
32 provide for some, or all, of the reimbursement to be made in
33 advance of the processing of the application or the response to the
34 request.

35 (3) Any agreement entered into pursuant to this subdivision
36 may include costs of reviewing and overseeing corrective action
37 as set forth in subdivision (b).

38 (4) This subdivision does not apply to any application or request
39 submitted to the department prior to July 1, 1998. Any person who
40 submitted such an application or request shall pay the applicable

1 fee, if not already paid, for the application or request as required
2 by this chapter as it read prior to January 1, 1998, unless the
3 department and the applicant or requester mutually agree to enter
4 into a reimbursement agreement in lieu of any unpaid portion of
5 the required fee.

6 (b) The department shall recover all the department's costs in
7 reviewing and overseeing any corrective action program described
8 in the application for a standardized permit pursuant to
9 subparagraph (C) of paragraph (2) of subdivision (c) of Section
10 25201.6 or required pursuant to subdivision (b) of Section
11 25200.10, and in reviewing and overseeing any corrective action
12 work undertaken at the facility pursuant to that corrective action
13 program.

14 (c) Any reimbursements received pursuant to this section shall
15 be placed in the Hazardous Waste Control Account for
16 appropriation in accordance with Section 25174.

17 ~~(d) (1) In lieu of entering into a reimbursement agreement~~
18 ~~with the department pursuant to subdivision (a), any person who~~
19 ~~applies for a new permit, a permit for postclosure, a renewal of an~~
20 ~~existing permit, or a class 2 or class 3 permit modification may~~
21 ~~instead elect to pay a fee as follows:~~

22 ~~(A) A person submitting a hazardous waste facilities permit~~
23 ~~application for a land disposal facility shall pay one hundred four~~
24 ~~thousand one hundred eighty-seven dollars (\$104,187) for a small~~
25 ~~facility, two hundred twenty-two thousand one hundred~~
26 ~~eighty-three dollars (\$222,183) for a medium facility, and three~~
27 ~~hundred eighty-one thousand six hundred two dollars (\$381,602)~~
28 ~~for a large facility.~~

29 ~~(B) A person submitting a hazardous waste facilities permit~~
30 ~~application for any incinerator shall pay sixty-two thousand seven~~
31 ~~hundred sixty-two dollars (\$62,762) for a small facility, one~~
32 ~~hundred thirty-three thousand sixty dollars (\$133,060) for a~~
33 ~~medium facility, and two hundred twenty-eight thousand four~~
34 ~~hundred fifty-eight dollars (\$228,458) for a large facility.~~

35 ~~(C) Except as provided in subparagraph (D), a person~~
36 ~~submitting a hazardous waste facility permit application for a~~
37 ~~storage facility, a treatment facility, or a storage and treatment~~
38 ~~facility shall pay twenty-one thousand three hundred forty dollars~~
39 ~~(\$21,340) for a small facility, thirty-eight thousand nine hundred~~
40 ~~thirteen dollars (\$38,913) for a medium facility, and seventy-five~~

1 ~~thousand three hundred seventeen dollars (\$75,317) for a large~~
2 ~~facility.~~

3 ~~(D) A person submitting an application for a standardized~~
4 ~~permit for a storage facility, a treatment facility, or a storage and~~
5 ~~treatment facility, as specified in Section 25201.6, shall pay~~
6 ~~thirty-two thousand fifty-two dollars (\$32,052) for a Series A~~
7 ~~standardized permit, twenty thousand eleven dollars (\$20,011) for~~
8 ~~a Series B standardized permit, and five thousand three hundred~~
9 ~~thirty-two dollars (\$5,332) for a Series C standardized permit. The~~
10 ~~board shall assess the fees specified in this subparagraph, in~~
11 ~~accordance with paragraph (2), based upon the classifications~~
12 ~~specified in subdivision (a) of Section 25201.6.~~

13 ~~(E) (i) A person submitting a hazardous waste facilities permit~~
14 ~~application for a transportable treatment unit shall pay sixteen~~
15 ~~thousand three hundred twenty dollars (\$16,320) for a small unit,~~
16 ~~thirty-seven thousand six hundred fifty-seven dollars (\$37,657)~~
17 ~~for a medium unit, and seventy-five thousand three hundred~~
18 ~~seventeen dollars (\$75,317) for a large unit.~~

19 ~~(ii) Notwithstanding clause (i), the fee for any application for~~
20 ~~a new permit, permit modification, or permit renewal for a~~
21 ~~transportable treatment unit, that was pending before the~~
22 ~~department as of January 1, 1996, shall be determined according~~
23 ~~to the type of permit authorizing operation of that unit, as provided~~
24 ~~by subdivision (d) of Section 25200.2 or the regulations adopted~~
25 ~~pursuant to subdivision (a) of Section 25200.2. Any standardized~~
26 ~~permit issued to the operator of a transportable treatment unit after~~
27 ~~January 1, 1996, that succeeds a full hazardous waste facilities~~
28 ~~permit issued by the department prior to January 1, 1996, in~~
29 ~~accordance with subdivision (d) of Section 25200.2 or the~~
30 ~~regulations adopted pursuant to subdivision (a) of Section 25200.2,~~
31 ~~shall not be considered to be a new hazardous waste facilities~~
32 ~~permit.~~

33 ~~(F) A person submitting a hazardous waste facilities permit~~
34 ~~application for a postclosure permit shall pay a fee of ten thousand~~
35 ~~forty dollars (\$10,040) for a small facility, twenty-two thousand~~
36 ~~five hundred ninety-six dollars (\$22,596) for a medium facility,~~
37 ~~and thirty-seven thousand six hundred fifty-seven dollars (\$37,657)~~
38 ~~for a large facility.~~

39 ~~(G) A person submitting an application for one or more class~~
40 ~~2 permit modifications, including a class 2 modification to a~~

1 standardized permit, shall pay a fee equal to 20 percent of the fee
2 for a new permit for that facility for each unit directly impacted
3 by the modifications, up to a maximum of 40 percent for each
4 application, except that each person who applies for one or more
5 class 2 permit modifications for a land disposal facility or an
6 incinerator shall pay a fee equal to 15 percent of the fee for a new
7 permit for that facility for each unit directly impacted by the
8 modifications, up to a maximum of 30 percent for each application.

9 (H) A person submitting an application for one or more class
10 3 permit modifications, including a class 3 modification to a
11 standardized permit, shall pay a fee equal to 40 percent of the fee
12 for a new permit for that facility for each unit directly impacted
13 by the modifications, up to a maximum of 80 percent for each
14 application, except that a person who applies for one or more class
15 3 permit modifications for a land disposal facility or an incinerator
16 shall pay a fee equal to 30 percent of the fee for a new permit for
17 that facility for each unit directly impacted by the modifications,
18 up to a maximum of 60 percent for each application.

19 (I) A person who submits an application for renewal of any
20 existing permit shall pay an amount equal to the fee that would
21 have been assessed had the person requested the same changes in
22 a modification application, but not less than one-half the fee
23 required for a new permit.

24 (J) A person who submits a single application for a facility that
25 falls within more than one fee category shall pay only the higher
26 fee.

27 (2) The fees required by paragraph (1) shall be assessed by the
28 board upon application to the department. For a facility operating
29 pursuant to a grant of interim status, the submittal of the application
30 shall be the submittal of the Part B application in accordance with
31 regulations adopted by the department. The fee shall be
32 nonrefundable, even if the application is withdrawn or denied. The
33 department shall provide the board with any information that is
34 necessary to assess fees pursuant to this section. The fee shall be
35 collected in accordance with Part 22 (commencing with Section
36 43001) of Division 2 of the Revenue and Taxation Code, and
37 deposited into the Hazardous Waste Control Account.

38 (3) The amounts stated in this subdivision are the base rates
39 for the 1997 calendar year. Thereafter, the fees shall be adjusted
40 annually by the board to reflect increases or decreases in the cost

1 of living, during the prior fiscal year, as measured by the Consumer
2 Price Index issued by the Department of Industrial Relations, or
3 a successor agency.

4 (4) ~~Except as provided in paragraph (5), for purposes of this~~
5 ~~section, and notwithstanding Section 25205.1, any facility or unit~~
6 ~~is “small” if it manages 0.5 tons (1,000 pounds) or less of~~
7 ~~hazardous waste during any one month of the state’s current fiscal~~
8 ~~year, “medium” if it manages more than 0.5 tons (1,000 pounds);~~
9 ~~but less than 1,000 tons, of hazardous waste during any one month~~
10 ~~of the state’s current fiscal year, and “large” if it manages 1,000~~
11 ~~or more tons of hazardous waste during any one month of the~~
12 ~~state’s current fiscal year.~~

13 (5) ~~For purposes of subparagraph (F) of paragraph (1) of this~~
14 ~~subdivision and paragraph (8) of subdivision (c) of Section~~
15 ~~25205.4, any facility or unit is “small” if 0.5 tons (1,000 pounds)~~
16 ~~or less of hazardous waste remain after closure, “medium” if more~~
17 ~~than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous~~
18 ~~waste remain after closure, and “large” if 1,000 or more tons of~~
19 ~~hazardous waste remain after closure.~~

20 (6) ~~The amounts stated in this subdivision are in addition to~~
21 ~~any amounts required to reimburse the department for the corrective~~
22 ~~action review and oversight costs required to be recovered pursuant~~
23 ~~to subdivision (b).~~

24 (e)

25 (d) Subdivision (a) does not apply to any variance granted
26 pursuant to Article 4 (commencing with Section 66263.40) of
27 Chapter 13 of Division 4.5 of Title 22 of the California Code of
28 Regulations.

29 (f)

30 (e) ~~Subdivisions~~ *Subdivision (a) and (d) do* does not apply to a
31 permit modification resulting from a revision of a facility’s or
32 operator’s closure plan if the facility is exempted from fees
33 pursuant to subdivision (e) of Section 25205.3, or if the operator
34 is subject to paragraph (2) or (3) of subdivision (d) of Section
35 25205.2.

36 (g)

37 (f) (1) Except as provided in paragraphs (3) and (4),
38 ~~subdivisions~~ *subdivision (a) and (d) do* does not apply to any permit
39 or variance to operate a research, development, and demonstration
40 facility, if the duration of the permit or variance is not longer than

1 one year, unless the permit or variance is renewed pursuant to the
2 regulations adopted by the department.

3 (2) For purposes of this section, a “research, development, and
4 demonstration facility” is a facility which proposes to utilize an
5 innovative and experimental hazardous waste treatment technology
6 or process for which regulations prescribing permit standards have
7 not been adopted.

8 (3) The exemption provided by this subdivision does not apply
9 to a facility which operates as a medium or large multiuser offsite
10 commercial hazardous waste facility and which does not otherwise
11 possess a hazardous waste facilities permit pursuant to Section
12 25200.

13 (4) The fee exemption authorized pursuant to paragraph (1)
14 shall be effective for a total duration of not more than two years.

15 ~~(h)~~

16 ~~(g) Subdivisions~~ *Subdivision (a) and (d) do does* not apply to
17 any of the following:

18 (1) Any variance issued to a public agency to transport wastes
19 for purposes of operating a household hazardous waste collection
20 facility, or to transport waste from a household hazardous waste
21 collection facility, which receives household hazardous waste or
22 hazardous waste from conditionally exempted small quantity
23 generators pursuant to Article 10.8 (commencing with Section
24 25218).

25 (2) A permanent household hazardous waste collection facility.

26 (3) Any variance issued to a public agency to conduct a
27 collection program for agricultural wastes.

28 ~~(i)~~

29 ~~(h)~~ Notwithstanding subdivisions (a) and (b), the department
30 shall not assess any fees or seek any reimbursement for the
31 department’s costs in reviewing and overseeing any preliminary
32 site assessment in conjunction with a hazardous waste facilities
33 permit application.

34 ~~(j)~~

35 ~~(i)~~ The changes made in this section by Chapter 870 of the
36 Statutes of 1997 do not require amendment of, or otherwise affect,
37 any agreement entered into prior to July 1, 1998, pursuant to which
38 any person has agreed to reimburse the department for the costs
39 incurred by the department in processing applications, responding

1 to requests, or otherwise providing other services pursuant to this
2 chapter.

3 *SEC. 4. Section 25205.18 of the Health and Safety Code is*
4 *amended to read:*

5 25205.18. (a) If a facility has a permit or an interim status
6 document ~~which~~ that sets forth the facility's allowable capacity
7 for treatment or storage, the facility's size for purposes of the
8 annual facility fee shall be based upon that capacity, except as
9 provided in subdivision (d).

10 (b) If a facility's allowable capacity changes or is initially
11 established as a result of a permit modification, or a submission
12 of a certification pursuant to subdivision (d), the fee that is due for
13 the reporting period in which the change occurs shall be ~~the lower~~
14 ~~fee until December 31, 1994. After that date, the fee that is due~~
15 ~~for the reporting period in which a change occurs shall be the~~
16 ~~higher fee.~~

17 (c) (1) The department may require the facility to submit an
18 application to modify its permit to provide for an allowable
19 capacity.

20 (2) ~~Subdivisions~~ *Subdivision* (a) ~~and (d)~~ of Section 25205.7 ~~do~~
21 ~~does not~~ apply to an application for modification required by the
22 department pursuant to this subdivision.

23 (d) A facility may reduce its allowable capacity below the
24 amounts specified in subdivision (a) or (c) by submitting a
25 certification signed by the owner or operator in which the owner
26 or operator pledges that the facility will not handle hazardous waste
27 at a capacity above the amount specified in the certification. In
28 that case, the facility's size for purposes of the annual facility fee
29 shall be based upon the capacity specified in the certification, until
30 the certification is withdrawn. Exceeding the capacity limits
31 specified in a certification that has not been withdrawn shall be a
32 violation of the hazardous waste control law and may subject a
33 facility or its operator to a penalty and corrective action as provided
34 in ~~this chapter, including, but not limited to, an augmentation~~
35 ~~pursuant to Section 25191.1. chapter.~~

36 (e) This section shall have no bearing on the imposition of the
37 annual postclosure facility fee.

38 *SEC. 5. Section 25205.19 of the Health and Safety Code is*
39 *amended to read:*

1 25205.19. (a) If a facility has a permit or an interim status
2 document ~~which~~ *that* sets forth the facility's type, pursuant to
3 Section 25205.1, as either treatment, storage, or disposal, the
4 facility's type for purposes of the annual facility fee shall be
5 rebuttably presumed to be what is set forth in that permit or
6 document.

7 (b) If the facility's type changes as a result of a permit or interim
8 status modification, any change in the annual facility fee shall be
9 effective the reporting period following the one in which the
10 modification becomes effective.

11 (c) (1) If the facility's permit or interim status document does
12 not set forth its type, the department may require the facility to
13 submit an application to modify the permit or interim status
14 document to provide for a facility type.

15 (2) ~~Subdivisions~~ *Subdivision* (a) ~~and (d)~~ of Section 25205.7 ~~do~~
16 *does* not apply to an application for modification pursuant to this
17 subdivision.

18 (d) A permit or interim status document may set forth more
19 than one facility type or size. In accordance with subdivision ~~(e)~~
20 *(d)* of Section 25205.4, the facility shall be subject only to the
21 highest applicable fee.

22 *SEC. 6. Section 25247 of the Health and Safety Code is*
23 *amended to read:*

24 25247. (a) The department shall review each plan submitted
25 pursuant to Section 25246 and shall approve the plan if it finds
26 that the plan complies with the regulations adopted by the
27 department and complies with all other applicable state and federal
28 regulations.

29 (b) The department shall not approve the plan until at least one
30 of the following occurs:

31 (1) The plan has been approved pursuant to Section 13227 of
32 the Water Code.

33 (2) Sixty days expire after the owner or operator of an interim
34 status facility submits the plan to the department. If the department
35 denies approval of a plan for an interim status facility, this 60-day
36 period shall not begin until the owner or operator resubmits the
37 plan to the department.

38 (3) The director finds that immediate approval of the plan is
39 necessary to protect public health, safety, or the environment.

1 (c) Any action taken by the department pursuant to this section
2 is subject to Section 25204.5.

3 (d) (1) To the extent consistent with the federal act, the
4 department shall impose the requirements of a hazardous waste
5 facility postclosure plan on the owner or operator of a facility
6 through the issuance of an enforcement order, entering into an
7 enforceable agreement, or issuing a postclosure permit.

8 (A) A hazardous waste facility postclosure plan imposed or
9 modified pursuant to an enforcement order, a permit, or an
10 enforceable agreement shall be approved in compliance with the
11 California Environmental Quality Act (Division 13 (commencing
12 with Section 21000) of the Public Resources Code).

13 (B) Before the department initially approves or significantly
14 modifies a hazardous waste facility postclosure plan pursuant to
15 this subdivision, the department shall provide a meaningful
16 opportunity for public involvement, which, at a minimum, shall
17 include public notice and an opportunity for public comment on
18 the proposed action.

19 (C) For the purposes of subparagraph (B), a “significant
20 modification” is a modification that the department determines
21 would constitute a class 3 permit modification if the change were
22 being proposed to a hazardous waste facilities permit. In
23 determining whether the proposed modification would constitute
24 a class 3 modification, the department shall consider the similarity
25 of the modification to class 3 modifications codified in Appendix
26 I of Chapter 20 (commencing with Section 66270.1) of Division
27 4.5 of Title 22 of the California Code of Regulations. In
28 determining whether the proposed modification would constitute
29 a class 3 modification, the department shall also consider whether
30 there is significant public concern about the proposed modification,
31 and whether the proposed change is so substantial or complex in
32 nature that the modification requires the more extensive procedures
33 of a class 3 permit modification.

34 (2) This subdivision does not limit or delay the authority of the
35 department to order any action necessary at a facility to protect
36 public health or safety.

37 (3) If the department imposes a hazardous waste facility
38 postclosure plan in the form of an enforcement order or enforceable
39 agreement, in lieu of issuing or renewing a postclosure permit, the
40 owner or operator who submits the plan for approval shall, at the

1 time the plan is submitted, ~~pay the same fee specified in~~
2 ~~subparagraph (F) of paragraph (1) of subdivision (d) of Section~~
3 ~~25205.7, or enter into a cost reimbursement agreement pursuant~~
4 ~~to subdivision (a) of Section 25205.7 and upon commencement~~
5 ~~of the postclosure period shall pay the fee required by paragraph~~
6 ~~(9) of subdivision (c) of Section 25205.4. For purposes of this~~
7 ~~paragraph and paragraph (9) of subdivision (c) of Section 25205.4,~~
8 ~~the commencement of the postclosure period shall be the effective~~
9 ~~date of the postclosure permit, enforcement order, or enforceable~~
10 ~~agreement.~~

11 (4) In addition to any other remedy available under state law to
12 enforce a postclosure plan imposed in the form of an enforcement
13 order or enforcement agreement, the department may take any of
14 the following actions:

15 (A) File an action to enjoin a threatened or continuing violation
16 of a requirement of the enforcement order or agreement.

17 (B) Require compliance with requirements for corrective action
18 or other emergency response measures that the department deems
19 necessary to protect human health and the environment.

20 (C) Assess or file an action to recover civil penalties and fines
21 for a violation of a requirement of an enforcement order or
22 agreement.

23 (e) Subdivision (d) does not apply to a postclosure plan for
24 which a final or draft permit has been issued by the department on
25 or before December 31, 2003, unless the department and the facility
26 mutually agree to replace the permit with an enforcement order or
27 enforceable agreement pursuant to the provisions of subdivision
28 (d).

29 (f) (1) Except as provided in paragraphs (2) and (3), the
30 department may only impose postclosure plan requirements through
31 an enforcement order or an enforceable agreement pursuant to
32 subdivision (d) until January 1, 2009.

33 (2) This subdivision does not apply to an enforcement order or
34 enforceable agreement issued prior to January 1, 2009, or an order
35 or agreement for which a public notice is issued on or before
36 January 1, 2009.

37 (3) This subdivision does not apply to the modification on or
38 after January 1, 2009, of an enforcement order or enforceable
39 agreement that meets the conditions in paragraph (2).

1 (g) If the department determines that a postclosure permit is
2 necessary to enforce a postclosure plan, the department may, at
3 any time, rescind and replace an enforcement order or an
4 enforceable agreement issued pursuant to this section by issuing
5 a postclosure permit for the hazardous waste facility, in accordance
6 with the procedures specified in the department's regulations for
7 the issuance of postclosure permits.

8 (h) Nothing in this section may be construed to limit or delay
9 the authority of the department to order any action necessary at a
10 facility to protect public health or safety, or the environment.

11 ~~SECTION 1. Section 1569.311 of the Health and Safety Code~~
12 ~~is amended to read:~~

13 ~~1569.311. A residential care facility for the elderly shall have~~
14 ~~one or more carbon monoxide detectors in the facility that meet~~
15 ~~the standards established in Chapter 8 (commencing with Section~~
16 ~~13260) of Part 2 of Division 12. The department shall account for~~
17 ~~the presence of these detectors during inspections.~~